

**REMARKS/ARGUMENTS**

Reconsideration is respectfully requested in view of the above amendments and the following remarks.

OK - The specification is amended herein to refer to the provisional application from which the pending application claims priority.

OK - Claims 7, 9, and 14 are amended herein for formal reasons. As these amendments are not made to overcome art, Applicant respectfully submits that they should not be interpreted in a limiting fashion.

OK - Figure 2 is amended herein to identify elements 14 and 35, an engine air inlet and edge mounting mechanism, respectively. The engine air inlet 14 is described in the specification, for example at page 5, line 28. The edge mounting mechanism likewise is described in the specification, for example at page 6, lines 3-4. Applicant respectfully submits that showing reference numbers in a drawing representing features already described in the application as originally filed does not constitute addition of new matter.

Claims 1-21 are pending in the application. No new matter has been added.

In the Office Action, it is asserted that the application does not comply with the conditions for receiving the benefit of a filing date under 35 U.S.C. 119(e). Applicant respectfully disagrees.

As noted in the Office Action, the pending application must contain a specific reference to the prior application, either in the first sentence of the specification or in an application data sheet, in accordance with 37 CFR 1.78(a)(2) and (a)(5). However, Applicant respectfully points out that a specific reference is made in the application data sheet. Applicant encloses herewith a copy of the application data sheet for the pending application, which specifically references

provisional application S/N 60/245,886 on page two, in the section for Domestic Priority Information.

In addition, the specification is herein amended to include in the first sentence thereof another specific reference to provisional application S/N 60/245,886. As reference previously was made to S/N 60/245,886 in the application data sheet, Applicant believes that this amendment is proper, and does not constitute the addition of new matter.

ck - Applicant respectfully submits that the present application complies with the requirements of 37 CFR 1.78(a)(2) and (a)(5), and properly claims priority from provisional application S/N 60/245,886.

ck - The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5), as not including reference signs 14 and 35. Applicant respectfully traverses the objection. Figure 2 is amended herein to include reference signs 14 and 35. Applicant believes the amendment overcomes the rejection. Reconsideration and withdrawal of the objection is respectfully requested.

ck - Claims 7 and 14 are objected to as containing informalities. Claims 7 and 14 are amended herein to avoid informalities. Applicant respectfully traverses the objection. Applicant believes the amendment overcomes the rejection. Reconsideration and withdrawal of the objection is respectfully requested.

ck - Claims 7, 9-14, and 16 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. In particular, the rejection asserts that the terms "said hood" in claim 7 and "said second portion" in claim 9 lack antecedent basis. Applicant respectfully traverses the rejection. Claims 7 and 9 are amended herein to depend from claims 2 and 3 respectively. Applicant believes that the pending claims as amended are definite. Reconsideration and withdrawal of the rejection is respectfully requested.

Claims 1, 19, and 21 are rejected under 35 U.S.C. § 102(b) as being anticipated by Powell et al. (U.S. Patent No. 6,167,862). Applicant respectfully traverses the rejection.

Claim 1 of the present invention recites an air flow path from an air intake to an engine air inlet, with a screen interposed between the air intake and the engine air inlet. The air flow path rises between the air intake and the screen, such that air must rise while passing through the screen. Claim 21 recites similar features.

*may still move in other directions, as long as it at least rises*

The rejection asserts that the filter assembly 140 of Powell is equivalent to the screen of the present invention. However, even if this characterization is correct, which point Applicant does not concede, Powell does not disclose or suggest an air path such that air must rise while passing through a screen.

As shown in Figure 2 of Powell, the filter assembly 140 includes as a canister 142 in the form of a hollow, open-ended cylinder. As described at column 3, lines 33-38, the canister has an air receiving surface (outer wall 150) and an air emitting surface (inner wall 152). As described at column 3, lines 38-45, air enters through the outer wall and passes through a filter media 156, which filters the air. The air then exits through the inner wall.

Powell indicates that filtered air from the canister moves in the direction of the arrow 188. As shown, the arrow indicates an airflow that rises at this point. However, this is the direction of filtered air that has already passed through the canister walls. Air is passing through the canister of Powell when it flows from the outer wall to the inner wall. Air at the arrow of Powell is not passing through the canister in the sense of passing through a filter or screen, but rather is merely flowing within the hollow body of the canister. The distinction is analogous to the difference between a filter and a pipe.

*has passed through screen 156 - c.3, l. 38-45*

As may be seen in Figure 2, the surface of the cylindrical canister is such that air may pass through the cartridge, from outer wall to inner wall, while moving in essentially any

*- including up*

direction. In particular, air above the cartridge may move downward while passing from the outer wall to the inner wall.

*so, claim does not exclude that; as  
long as air moves up, air is so 'is'.*

Powell nowhere discloses or suggests an air path such that air must rise while passing through a screen. Thus, even if the filter assembly of Powell is similar to that of the present invention, which point Applicant does not concede, Powell lacks the functionality of the present invention as claimed.

*yes, air flow is  
general, upward-  
moving pulls air up  
- contention that it  
moves down or  
undisclosed but  
is speculation  
- it is not  
suggested by disclosure  
- since air is  
being pulled up,  
not strongly  
suggest an upward  
flow through  
filter exists,  
even if some of  
the air may  
move in other  
direction*

As the present invention according to claims 1 and 21 includes features neither disclosed nor suggested by Powell, Applicant respectfully submits that claims 1 and 21 are not anticipated by Powell. Reconsideration and withdrawal of the rejection is respectfully requested.

Claim 19 depends from claim 1, and incorporates the limitations thereof. The remarks made above with regard to claim 1 apply equally to claim 19, and Applicant respectfully submits that separate arguments need not be presented in support of claim 19 at this time. Applicant does not concede the correctness of the rejection, and reserves the right to present further arguments.

Claims 2-4, 6-8, 15, 17, 18, and 20 are rejected under 35 U.S.C. § 103(a) as being obvious from Powell in view of Martenas et al. (U.S. Patent No. 5,199,522). Applicant respectfully traverses the rejection.

Claims 2-4, 6-8, 15, 17, 18, and 20 depend from claim 1, and incorporate the limitations thereof. The remarks made above with regard to claim 1 apply equally to these dependent claims, and Applicant respectfully submits that separate arguments need not be presented in their support at this time. Applicant does not concede the correctness of the rejection, and reserves the right to present further arguments.

Applicant notes that Martenas is relied upon to teach features such as the structure of a hood and the arrangement of an air intake. However, even if Martenas is prior art as categorized, and is suitable for combination with Powell, which points Applicant does not concede, Martenas

does not remedy the deficiencies of Powell. In particular, Martenas does not disclose or suggest an air path such that air must rise while passing through a screen.

Applicant appreciates the Examiner's determination that claims 5, 9-14, and 16 contain allowable subject matter. Applicant does not concede that these claims are allowable only for the reasons stated in the Office Action.

As all matters raised in the Office Action are now addressed, Applicants believe all pending claims likewise are in condition for immediate allowance. Favorable reconsideration in the form of a Notice of Allowance is respectfully requested.


If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Applicant's primary attorney-of-record, Douglas P. Mueller (Reg. No 30,300) at (612) 371-5237.



Respectfully submitted,

MERCHANT & GOULD P.C.  
P. O. Box 2903  
Minneapolis, MN 55402-0903  
(612) 332-5300

Date: July 21, 2003

  
\_\_\_\_\_  
Douglas P. Mueller  
Reg. No. 30,300  
DPM/MLL

OIP E 20156  
JUL 25 2003  
PATENT & TRADEMARK OFFICE

